United Nations E/C.12/MCO/CO/2-3

Economic and Social Council

Distr.: General
19 June 2014
English
Original: French

Committee on Economic, Social and Cultural Rights

Concluding observations concerning the second and third periodic reports of Monaco, submitted as a single document*

1. The Committee on Economic, Social and Cultural Rights considered the combined second and third periodic reports of Monaco, submitted in a single document, on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/MCO/2-3) at its 9th and 10th meetings (E/C.12/2014/SR.9 and SR.10), held on 2 May 2014. At its 40th meeting, held on 23 May 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission by Monaco of its second and third periodic reports and its written replies to the list of issues (E/C.12/MCO/Q/2-3/Add.1). However, the Committee wishes to point out that the reports were not drafted in full conformity with the Committee's guidelines in that they do not cover all the rights set out in the Covenant. Accordingly, the Committee calls upon the State party to follow these guidelines when drafting its next periodic report.

3. The Committee also welcomes the constructive dialogue held with the State party's high-level delegation, which included representatives of various ministerial departments.

B. Positive aspects

4. The Committee welcomes with satisfaction the ratification by the State party of the following human rights instruments:

(a) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, on 24 September 2008;

(b) The Convention against Discrimination in Education, on 28 August 2012.

5. The Committee notes with satisfaction the adoption of laws strengthening the protection of economic, social and cultural rights, including:

* Adopted by the Committee at its fifty-second session (28 April–23 May 2014).

GE.14-05625 (E) 180714 180714

1405625

Please recycle

(a) Act No. 1.309 of 29 May 2006 concerning paternity leave for employees;

(b) Act No. 1.344 of 26 December 2007 strengthening the punishment for crimes and offences against children;

(c) Act No. 1.355 of 23 December 2008 concerning associations and federations of associations;

(d) Act No. 1.360 of 4 July 2009 concerning support and social protection for independent professional artists;

(e) Act No. 1.375 of 16 December 2010 amending Act No. 446 of 16 May 1946 on the establishment of a labour tribunal;

(f) Act No. 1.382 of 20 July 2011 concerning the prevention and punishment of certain forms of violence;

(g) Act No. 1.387 of 19 December 2011 amending Act No. 1.155 of 18 December 1992 concerning nationality.

6. The Committee takes note of the measures adopted by the State party that contribute to the implementation of economic, social and cultural rights, in particular the establishment in October 2013 of the Office of the High Commissioner for the Protection of Human Rights and Freedoms and for Mediation.

C. Principal subjects of concern and recommendations

Disaggregated and detailed data on the implementation of the Covenant

7. The Committee is concerned at the fact that the State party has not provided sufficient disaggregated and detailed data in its report or its replies to the list of issues to allow the Committee to assess the impact of the measures taken by the State party to give full effect to the provisions of the Covenant or to measure the enjoyment of economic, social and cultural rights in the State party (art. 2).

The Committee recommends that the State party provide in its next periodic report disaggregated and detailed data on the impact of the measures it has taken so that the Committee can assess the enjoyment of the rights established in the Covenant. The Committee draws the attention of the State party to the guidelines established by the Committee for the preparation of reports and to its general comment No. 1 (1989) on reporting by States parties.

Reservations and interpretive declarations

8. The Committee regrets that the State party continues to maintain its reservations to articles 6, 9, 11 and 13 and article 8, paragraphs 1 (a), (b) and (c), and its interpretative declarations with regard to article 2, paragraph 2, and article 8, paragraph 2, of the Covenant (art. 2).

The Committee reiterates the recommendation it made to the State party in its previous concluding observations (E/C.12/MCO/CO/1, para. 16) that it should withdraw its reservations and interpretative declarations to certain provisions of the Covenant in order to give full effect to all its provisions. It draws the attention of the State party to its general comment No. 9 (1998) on the domestic application of the Covenant.

National Human Rights Institution

9. While noting the establishment by sovereign ordinance in October 2013 of the Office of the High Commissioner for the Protection of Human Rights and Freedoms and for Mediation, the Committee wonders whether this Office is in full conformity with the Principles relating to the Status of National Institutions (the Paris Principles). It regrets that the State party has not sought accreditation for the new institution with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (art. 2).

The Committee recommends that the State party seek accreditation for the Office of the High Commissioner for the Protection of Human Rights and Freedoms and for Mediation with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, which will determine whether it is in full compliance with the Paris Principles adopted by the United Nations General Assembly in its resolution 48/134 of 20 December 1993.

Official development assistance

10. While the Committee appreciates the efforts made by the State party, it is disappointed to learn from the State party's delegation that the objective of increasing the level of its official development assistance to 0.7 per cent of its gross national product by 2015 will not be met (art. 2).

The Committee recommends that the State party increase its efforts to meet the international objective of allocating 0.7 per cent of gross national product for official development assistance.

Discrimination in the transmission of nationality

11. While it notes the measures taken by the State party to make it possible to acquire and transmit nationality, the Committee notes with concern that persons who have acquired Monegasque nationality through marriage cannot transmit their nationality following a divorce (art. 2).

The Committee recommends that the State party amend its legislation to make the transmission of nationality possible for all Monegasques, regardless of how they have acquired that nationality.

Equality between men and women

12. The Committee regrets the lack of information on measures taken to ensure in practice equality between men and women in the various areas covered by the Covenant, particularly in the area of employment. The Committee is concerned at the fact that women continue to be underrepresented in public affairs and politics and particularly in elected bodies (representation rates of 20.8 per cent in the parliament and 26.8 per cent in the Communal Council). The Committee is also concerned that measures aimed at promoting a sharing of roles and responsibilities by men and women within the family, such as parental leave, are not implemented in practice (art. 3).

In the light of its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights, the Committee recommends that the State party:

(a) Ensure the equality in practice of men and women in the enjoyment of all rights covered by the Covenant, particularly in the area of employment;

(b) Increase its efforts to ensure that women are better represented in public affairs and politics, particularly within political bodies, including by taking steps to encourage women to run for office, as well as in the public and private sectors;

(c) Take steps to encourage more equitable sharing by men and women of roles and responsibilities within the family, including the expansion of possibilities for parental leave for men, thereby allowing women to enjoy their economic, social and cultural rights fully.

Discrimination in employment

13. The Committee is concerned at reports that in some cases the system of priorities established by the State party in the area of employment is resulting in instances of discrimination by employers with regard to the hiring and dismissal of non-nationals (art. 6).

The Committee recommends that the State party ensure that the effective application of the system of priorities it has established does not lead to abuses or discrimination in the hiring and dismissal of non-nationals. The Committee also recommends that the State party incorporate a reference to the specific types of discrimination prohibited under article 2 of the Covenant (and detailed in its general comment No. 20 (2009) on non-discrimination in the exercise of economic, social and cultural rights) in Bill No. 895 amending Act No. 975 of 12 July 1975 concerning the status of civil servants, and that the State party adopt the Bill and implement it. Lastly, the Committee recommends that the State party take steps to ensure that employees have an opportunity to learn of their rights and to facilitate the presentation of any complaints relating to cases of discrimination in employment. It draws the State party's attention to its general comment No. 18 (2005) on the right to work.

Working conditions of domestic workers

14. While noting the relevant information provided by the State party, the Committee is concerned that the labour inspectorate cannot effectively monitor the situation of domestic workers, a fact that is likely to give rise to abusive working conditions and undeclared employment (art. 7).

The Committee recommends that the State party amend its legislation to enhance the capacities and resources of the labour inspectorate so that it can monitor the situation of domestic workers more effectively, including their recruitment and working conditions, and seek to put an end to undeclared employment by this category of workers. The Committee also recommends that the State party inform domestic workers of their rights and make it easier for them to file complaints in cases of abuse.

Informal employment

15. The Committee is concerned about reports of informal employment in the hotel and catering and construction industries in the State party. It is also concerned that the working conditions of persons employed informally are not compatible with the requirements of the Covenant (art. 7).

The Committee recommends that the State party step up inspections to ensure that no one is employed informally in its territory, and expedite the introduction of construction workers' licences. It also recommends that the State party apply its legislation effectively in this regard, make it easier to file complaints and punish employers who do not comply with the law. It invites the State party to provide information on the extent of informal employment, on the additional measures taken to combat it and on the penalties handed down to offenders.

Restrictions on trade union rights

16. The Committee is concerned about the discriminatory nature of the legislative restrictions on trade unions and trade union federations that stipulate that Monegasque or French nationals must constitute the majority of trade union officials or of officers in the federal leadership of trade union federations (art. 8).

The Committee urges the State party to review its legislation to allow access on a non-discriminatory basis to decision-making posts within the leadership of trade unions and the trade union federation.

Social benefits

17. The Committee, while noting that it is possible for the State party to grant exemptions, remains concerned about the State party's position that it will not reduce the requirement of five years of residence for low-income non-Monegasque nationals to be eligible for certain social and medical benefits (art. 9).

The Committee reiterates the recommendation made to the State party in its previous concluding observations (E/C.12/MCO/CO/1, para. 18) that it should re-examine the factors preventing it from reducing the five-year residence requirement, and should reduce that requirement or put in place a mechanism to allow non-Monegasque nationals who have not yet completed five years of residence and are living on low incomes to be eligible for social benefits. The Committee draws the attention of the State party to its general comment No. 19 (2007) on the right to social security.

Domestic violence

18. The Committee, while noting the many measures adopted by the State party, including Act No. 1.382 of 20 July 2011 on the prevention and punishment of specific forms of violence, is concerned about the persistence of domestic violence, particularly violence against women, in the State party. It is concerned about the small number of complaints filed and the leniency of the penalties handed down to perpetrators of domestic violence, particularly where such penalties take the form of fines or suspended prison sentences. The Committee regrets the absence of data on the compensation granted to victims and the impact of the State party's campaigns to reduce domestic violence (art. 10).

The Committee recommends that the State party take a firm stand against domestic violence, in particular by applying its legislation effectively. The Committee also recommends that the State party make it easier for women to file complaints and that it enhance the assistance and protection measures provided for them. The State party should provide the Committee with data on compensation and the outcome of the domestic violence cases pending before the courts, the amounts awarded and the impact of awareness campaigns in reducing domestic violence.

Access to housing

19. The Committee is concerned about difficulties encountered in finding accommodation by certain non-Monegasque nationals who have been working in Monaco for an extended period of time. It is also concerned about the retention of the five-year residence requirement for non-Monegasque nationals to be eligible for housing assistance (art. 11).

The Committee recommends that the State party continue its efforts to find accommodation for non-Monegasque nationals who have been working in the State party for an extended period of time, particularly by relaxing the conditions for access to housing established in Act No. 1.235 of 28 December 2000 and to State-owned

accommodation in adjacent communes. The Committee also recommends that the State party reduce the five-year residence requirement for access to housing aid for persons on low incomes residing in Monaco. The Committee draws the attention of the State party to its general comment No. 4 (1991) on the right to adequate housing.

Sexual and reproductive health education

20. The Committee is concerned about the fact that school programmes do not provide adolescents and young people with a full education in the areas of sexual and reproductive health and responsible sexual conduct (art. 12).

The Committee recommends that the State party provide a full, age-appropriate education in the areas of sexual and reproductive health and responsible sexual conduct to male and female adolescents and young people, at all educational levels.

Restrictive legislation on voluntary termination of pregnancy

21. The Committee notes that Act No. 1.359 of 20 April 2009 establishing a prenatal coordination and family support centre and the amendment of article 248 of the Criminal Code and article 323 of the Civil Code permit the termination of pregnancy when it constitutes a risk to the life of the pregnant woman, when there exists the likelihood of a severe disorder or incurable disease endangering the life of the foetus, or when the pregnancy results from a criminal act. The Committee is nevertheless concerned that the conditions under which an abortion may be permitted are still too restrictive and may lead to risky or clandestine procedures (art. 12).

The Committee recommends that the State party further liberalize its abortion legislation and asks it to provide information in its next periodic report regarding the impact of the amended Criminal Code on abortion and on risky and clandestine abortions.

Drug use by young people

22. The Committee, while noting the many initiatives taken by the State party, is concerned at reports of the persistence of drug use among young people (art. 12).

The Committee recommends that the State party increase its efforts to combat the use of drugs by young people, particularly by continuing its awareness-raising activities. It also urges the State party to provide it with the results of the survey carried out on this subject as well as data on the impact of measures that it has taken in this regard.

Human rights education and training

23. The Committee notes with concern that the State party has not adopted measures to raise awareness of human rights, particularly the rights recognized in the Covenant, among State officials and the judiciary, as the Committee recommended in its previous concluding observations (E/C.12/MCO/CO/1, para. 27) (art. 13).

The Committee reiterates its recommendation that the State party raise awareness of human rights, particularly economic, social and cultural rights, among State officials and the judiciary.

Access to culture

24. The Committee is concerned at the inadequacy of the measures taken by the State party to ensure full access to culture for disabled persons and persons with low incomes. It is also unclear as to the measures taken to ensure that the entire population enjoys the

benefits of scientific progress and to protect the rights referred to in article 15, paragraphs 1 (b) and (c), of the Covenant.

The Committee recommends that the State party increase its efforts to ensure access to culture for all, particularly for persons with disabilities and those living on low incomes. It also recommends that the State party take measures to ensure that the entire population enjoys the benefits of scientific progress and to protect moral and material interests resulting from scientific production.

D. Other recommendations

25. **The Committee encourages the State party to consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

26. **The Committee encourages the State party to consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities.**

27. **The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular within the civil service, the judiciary, the parliament and civil society organizations, and to inform the Committee, in its next periodic report, of the steps it has taken to implement them. It encourages the State party to involve civil society organizations in discussions at the national level prior to the submission of its next periodic report.**

28. **The Committee invites the State party to update its common core document submitted in 2008 in accordance with the harmonized guidelines on reporting (HRI/MC/2006/3) approved by the human rights treaty bodies.**

29. **The Committee requests the State party to submit its fourth periodic report in accordance with the guidelines adopted by the Committee in 2008 (E/C.12/2008/2) by 30 May 2019.**